

REMARKS

The Official Action of March 24, 2009, the third Final Rejection in this case, has been carefully studied. The claims in the application remain as claims 1, 3, 4 and 6-17, with only relatively small amendments being presented above in claims 3, 4 and 6, but the claims having been rather substantially amended in the Reply to the second Final Rejection, filed March 10, 2009. Applicant again requests favorable reconsideration and allowance.

Applicant must respectfully raise a complaint. First, in view of the rather substantial amendments made in the reply of March 10, 2009, Applicant believes it was unfair for the Examiner to issue the Office Action of March 24, 2009, as a final rejection. New issues were presented.

Second, Applicant believes that the amendments and arguments presented in the reply filed March 10, 2009, seem not to have been fully taken into account in the third Final Rejection mailed March 24, 2009. In this latter regard, Applicant believes and respectfully submits that the Examiner has not fully complied with those parts of the MPEP including §§ 707.07(f) and 706.07, which indicate that the Examiner should answer or rebut the points raised by the Applicant, and should state the reasons for his or her position to such an extent that the Applicant may readily judge the advisability of an appeal. Applicant feels as though the Examiner has not done so in the Final Office Action of March 24, 2009, and therefore the claims as presented above are substantially un-amended and the remarks from the preceding Reply must be respectfully repeated by reference.

As was done previously, all the claims except for 10 and 13 have been again rejected as obvious under \$103 from Ruffner in view of Stroup. This rejection is again respectfully traversed for the reasons set forth in the Reply filed March 9, 2009, respectfully repeated by reference, and for the additional reasons set forth below.

According to the Examiner, Stroup discloses a door with a rigid bottom edge comprising a guide strip 9 on the wall 1 and a guide strip 20 on bottom edge of the door 19. However, these strips 9 and 20 of Stroup cannot be named guide strips since these are not capable of performing the function of guide strips. First in this regard, these strips 9 and 20 do not guide any surface or object in Stroup, and second these strips 9 and 10 are not capable of guiding a surface or object and are made of a resilient material.

Two of the main objects explicitly mentioned by Stroup are:

- to provide a door that is easily operated to and from its fully closed position and without substantial frictional engagement with the seals (see Stroup, column 1, lines 16-18);

- to provide a door with clamp means that constitute means for opening the door and the retraction thereof from the jamb seals, thereby positioning the door for free opening movement (see Stroup, column 1, lines 36-39).

Thus from these objects it follows clearly that the seals of Stroup do not and cannot function as guide strips. Stroup clearly does not teach any guiding function which a person of ordinary skill in the art could learn.

Further it is explicitly mentioned that the seals, and thus the portion 9 of the seals, are resilient (see column 2, lines 10-11). To one of ordinary skill in the art, it is clear that a resilient seal is not suitable to perform the function of a guide strip, especially not for guiding a door. This is confirmed by the fact that Stroup avoids any sliding or guiding contact between the door panel and the seals. To this aim, the swinging of the upright track sections 15 on their pivots moves the door toward and from the jamb seals (see column 2, lines 38-40). Further, on the initial opening movement of the door, the lower ends of the track sections 15 are swung rearwardly (see column 2, lines 63-65).

Stroup also explicitly mentions "This initial opening movement of the door also releases the jamb seals so that the door can be easily opened, and without any frictional wear on the seals." (see column 3, lines 25-28).

Column 3, lines 56-59, of Stroup also mentions that edgewise movement of the door is prevented, thus minimizing wear on the door seals.

From the above, it is absolutely clear that Stroup avoids any moving contact between the door and the seals since these seals are resilient and are not intended to be guiding surfaces and are not capable of functioning as a slide guiding surface.

Thus one of ordinary skill in the art would not incorporate the seals of Stroup into the door of Ruffner for the purpose of slide guiding the flexible door.

Moreover, the synergistic effect of using the bottom edge of the second door for maintaining the contact and the seal between the flexible door and the wall is not present in

Ruffner. Indeed, there is a large gap between the bottom edge of the second door, when this door is in the open position, and the flexible door of Ruffner as can be seen in Figure 5 of Ruffner. Thus, contrary to what is indicated in the rejection, the function of supporting the seal of the flexible door is not taught by Ruffner, and Ruffner is not capable of performing this function due to the large gap.

Withdrawal of the rejection is in order and is respectfully requested.

Applicant has complained above that the third Final Action of March 24, 2009, does not reflect a complete response to Applicant's Reply filed March 9, 2009, and in this regard Applicant wishes to particularly emphasize claims 3, 4, 6, 11, 14 and 15. In this regard, Applicant does not see that the Examiner has discussed or considered important features of these claims, nor all the arguments presented in the reply of March 10, 2009.

As to claims 3, 4 and 6, the feature that the flexible door has a sealing element extending along the width of the flexible door is not disclosed in any of the cited prior art documents. As a consequence of this feature, the sealing element moves together with the flexible door and friction between the sealing element and the wall or the second door is avoided during movement of the flexible door, whereby a slit between the wall and the bottom edge of the second door of sufficient width is maintained.

Thus the sealing element of these claims clearly has a function that is not present in either Ruffner or in Stroup.

Withdrawal of the rejection of claims 3, 4 and 6 is in order and is respectfully requested.

In claim 11, the flexible door comprises a shutter with side edges that are guided in guide tracks passing through the slit between the wall and the bottom edge of the second door. Thus, the width of the flexible door is and must be smaller than the width of the second door. Such an arrangement presents, for example, the advantage that the guide tracks can be used as sealing elements for the second door when this second door is closed. None of the prior art documents, including Ruffner, teach or suggest that the flexible door can have a smaller width than the second door.

Withdrawal of the rejection of claim 11, and dependent claims 12 and 13, is in order and is respectfully requested.

In claim 14, the feature that the guide tracks of the flexible door constitute seals between the wall and the second door, when the second door is in the closed position, is explicitly claimed. None of the cited documents discloses guide tracks that guide a first door and forming a seal for a second door. This double function of the guide tracks is completely new over the prior art and certainly not obvious for one of ordinary skill in the art.

The seals of Stroup are absolutely not capable of performing the function of a guide track for the side edges of a flexible door, and the guide tracks of the flexible door of Ruffner cannot be used as seals between the wall and the second door.

Withdrawal of the rejection of claim 14 is in order and is respectfully requested.

Claim 15 has the feature that the bottom edge of the flexible door has an elastic bead extending across its entire width, clamped between the wall and the second door when the flexible door is open and the second door is closed. As already mentioned in the reply of March 10, 2009, none of cited documents discloses a set of doors wherein a first door has a bottom with an elastic bead that two functions i.e. sealing the bottom of the bay when the first door is in the closed position and sealing the top of the second door when this door is in the closed position.

Such a feature is not taught by Ruffner and certainly not by Stroup and there is no way that a combination of Ruffner in view of Stroup could meet claim 15. The seals of Stroup are not capable of performing such a double function. Withdrawal of the rejection of claim 15 is in order and is respectfully requested.

Claim 10 has been again rejected as obvious under §103 from Ruffner in view of Stroup and further in view of Church; and claim 13 has been again rejected as obvious under §103 from Ruffner in view of Stroup and further in view of Homer. These rejections are respectfully traversed for the reasons of record, respectfully repeated by reference, noting pages 17 and 18 of the Reply filed March 9, 2009.

Again, the tertiary references do not make up for the deficiencies of Ruffner in view of Stroup as pointed out above

and previously. Therefore, even if the proposed combinations of Ruffner in view of Church and Ruffner in view of Homer were obvious, respectfully not conceded, the rejections would not even reach the claim 1 part of claim 10 or the features of claim 14 which it shares with claim 1.

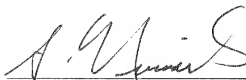
Withdrawal of these rejections is in order and is respectfully requested.

Applicant again respectfully requests favorable reconsideration and allowance.

Respectfully submitted,

BROWDY AND NEIMARK, P.L.L.C.
Attorneys for Applicant

By



Sheridan Neimark
Registration No. 20,520

SN:ltm
Telephone No.: (202) 628-5197
Facsimile No.: (202) 737-3528
G:\BN\C\Call\COENRABTS10\pto\2009-9-24 Third AMD AF.doc